APPENDIX C.

SPECIAL SUBJECTS PLACED BEFORE THE REPRESENTATIVE ASSEMBLY FOR OPINION.

(i) Press Legislation.
(ii) Irrigation Bill.
(iii) Maintenance of Restored Tanks.
(iv) Improvement of Process Service.

(i) Note on the Amendment of the Press Law.

A tentative Draft Bill for the Amendment of the Press Law in Mysore was placed before the Assembly at the last Dasara Session for an expression of its opinion. The main features of the draft Bill were (1) that the provision now existing in the Newspapers Regulation III of 1908 requiring previous permission of Government to edit, print or publish a paper was to be dispensed with, (2) that the nature of the matter, the publication of which would render the paper liable to suspension was categorically defined, (3) that action was to be taken againt a newspaper only after judicial enquiry, and (4) that any order passed after such enquiry was subject to appeal to the Chief Court.

The general sense of the Assembly was not in favour of the Bill, and, as suggested by some of the members during the course of discussion, the Government appointed a Special Committee presided over by the First Member of Council with the undermentioned gentlemen as members:—

Mr. C. S. Balasundaram Iyer, B.A.
„ K. Matthan, B.A.
„ K. Sankaranarayana Rao, M.A., B.L.
„ B. Narasinga Rao.
„ S. Venkatesiah, B.A., B.L.
„ Abdur Rahmon, B.A.
„ G. Paramasiviah, B.A., LL.B.
„ M. Subbiah, B.A. (On his death his place was taken by Rao Sahib Mr. H. Chennaiya.)

The Committee have submitted a unanimous report together with two draft Bills which they recommend for adoption.

The first of these is for the amendment of the Press and Registration of Books Act, XXV of 1867, as introduced in Mysore by the Government of India Notification No. 176, dated the 12th September 1867, and amended by Regulation I of 1894. The amendments proposed are the same as those recently adopted in British India by Act XIV of 1922. The principles of the amending Regulation are that the editor of every newspaper, like the printer and publisher, is required to make a declaration before a Magistrate that he is the editor. Punishments prescribed under the Act are considerably reduced. The name of the editor should appear in every issue of the paper, and any person whose name wrongly appears as editor is given an opportunity to get the mistake rectified.

The second Bill proposed by the Committee is intended to replace the existing Newspapers Regulation. Its main provisions are (1) that previous permission of Government to edit, print or publish newspapers will not be required, (2) that Government may prohibit the publication of a newspaper in cases where the editor, printer or publisher is convicted of the offence of sedition or of promoting enemity between classes under Section 124A or 153A of the Indian Penal Code, (3) that Government will have the same power to prohibit the publication of a newspaper if it habitually publishes matter punishable under the above two sections or under Section 500 of the Indian Penal Code relating to defamation, (4) that in such cases, an appeal against the Order of Government will lie to a special Bench of the Chief Court, and (5) provisions have also been inserted, as in the British Indian Act XIV of 1922, for the confiscation of printed matter which is seditious.

The opinion of the Assembly as to the general principles of the above two Bills is invited.

(ii) Note on the Irrigation Bill.

The proposal of Government to introduce legislation for the efficient management of irrigation works was discussed at the Representative Assembly Session of June 1922 and Government promised that the Draft Irrigation Bill would be brought up for the discussion at the Assembly. Since then the Bill has been scrutinised by a Committee consisting of the Revenue Commissioner, the Chief Engineer, the Chief Secretary and the Secretary, Legislative Department. The main features of the Bill as revised by the Committee are as follows:—

1. The Bill affirms the right of Government to all water, flowing or standing which is not the property of private individuals.

2. It provides for the appointment of Irrigation Officers to control and supervise the irrigation works and to regulate the supply of water therefrom. It gives power to irrigation officers, under certain conditions and subject to certain safeguards to enter upon private lands to carry out the necessary repairs, etc., in cases of accidents to irrigation works.

3. It makes provision for the construction of new and the extension of old water courses, either by private persons interested in the matter or by Government on behalf of such persons, after considering any objections that may be urged against the construction or alignment of the water courses and the acquisition of the lands required for the purpose. It also makes provision for the supply of water through existing water courses to fresh applicants therefor, after giving notice to and hearing objections, from the occupants of the lands already supplied from such water course.

4. With a view to enable Government to undertake the construction of new and costly irrigation projects which will not be remunerative unless a certain minimum water rate is guaranteed, the bill provides for the publication of a notice in the localities concerned, furnishing information about the cost of the project, the area that will be benefitted by it and the water rate proposed to be recovered in respect of the lands that will be benefitted by the work, and for the work being undertaken by Government if two-thirds of the land holders concerned agree to the construction and to the proposed water rates.

5. In the case of emergencies when an irrigation work is in imminent danger of breaching or of serious damage and the materials and labour required for the execution of the works necessary to avert the danger cannot be obtained in the ordinary manner, the Bill authorises certain officers of Government to impress the required labour and material, payment being made therefor at the usual rates prevailing in the locality.

6. As the Channel Offence Rules now in force, which are more than 45 years old, are unsuited to present conditions and do not sufficiently cover all cases of damage or injury to irrigation and drainage works, more comprehensive provisions are made in the present Bill to meet all possible cases in this respect. Where the persons wilfully causing damage, obstruction, etc., to an irrigation work, cannot be ascertained and identified, the Bill empowers the Deputy Commissioner to recover the cost of repairing such damage, etc., from the occupants of all the lands benefitted by the damage, etc., after giving a notice to them and hearing their representations.

7. The Tank Maintenance Rules now in force are placed on a statutory basis by being incorporated in the Bill. While the present Rules are applicable only to restored tanks, unrestored tanks are also brought under the operation of the Bill in respect of certain kinds of customary labour, such as clearance of weeds and filling up of ruts and tracks on the bunds, etc.

8. Section 53 of the Land Revenue Code which empowers Government to levy such rate as they may codsider proper for water made available for irrigation or other purposes and also to revise such rates from time to time is proposed to be amended so as to exclude from its operation such irrigation works as would come under the scope of the Irrigation Bill.

(iii) Note on the Maintenance of Resorted Tanks.

The individuals held responsible for the maintenance and up-keep of the tanks are the Pattadars, Shikmidars, Inamdars and others holding lands attached to the village, either dry or wet, the inhabitants of the village and all others deriving any

benefit whatever from the tank, either directly or indirectly *vide* Article 360 of the Revenue Manual.

The works falling under the head of "Tank Maintenance" are detailed below :—

Nature of work to be done by raiyats.

(1) To maintain the bund to the standard level and with the slopes specified.

(2) To fill up gullies or other inequalities caused by rain, the treading of cattle, etc., upon the bunds of tanks and channels.

(3) To check the growth on bunds of prickly pear and any similar rank and pernicious weed.

(4) To clear any underwood from the bunds of tanks wherever it may be injurious.

(5) To clear and repair the earthwork of petty and branch channels and clear away the accumulatives in sluices and in all channels issuing from tanks which obstruct the flow of water to the fields.

(6) To keep in order the supply channels of tanks.

(7) To watch the bunds of all tanks during rainy weather, etc.

In case of default by any individual in the execution, the Patel is empowered and required to carry out the portion of the work that ought to have been done by the defaulter by paid labour, the cost being recovered from the defaulter as a revenue demand.

Where tanks have deteriorated owing to neglect of maintenance, the maximum amount that should be levied from the raiyats for their cumulative neglect is one year's assessment of land in the atchakat of the tank.

II. With regard to levy of acreage cess in commutation of maintenance work, the best practicable means of maintaining tanks in good order is to entrust their management to the raiyats of the village, who are the natural guardians and immediate beneficiaries of the works. Government cannot relieve the cultivating raiyats of their responsibility in this respect and introduce *as a general rule*, the system of acreage under all irrigation works. The acreage cess can only be imposed where the raiyats have voluntarily agreed, by executing mutchalikas, to pay the cess instead of contributing labour and cannot, at present, be compulsorily levied. The levy of the cess must remain as at present, an exceptional measure and is perhaps desirable in the case of large tanks with atchkats extending over a number of villages where owing to (*a*) the large number of absentee landlords, (*b*) factions in different villages, (*c*) scarcity of population or (*d*) other similar causes, communal labour cannot be readily obtained; and even in these cases the cess should cover special establishment charges for supervision and prompt execution of works, regulation of water, etc.

Though the rules of tank maintenance are definite, it is noticed from the inspection of a large number of tanks, major and minor, in the Tumkur District that invariably the maintenance work is absolutely neglected and in fact not carried out at all. The raiyats are further encouraged by the fact that the liability of neglect of maintenance is limited to one year's assessment as stated above. Under such conditions, the restoration of tanks carried out by Government will have been practically in vain as they are reduced to the same inefficient condition as before by utter neglect. The co-operation of the raiyats in this matter is an extremely urgent necessity

Proposals.

(1) Legislation to make the maintenance work compulsory ;
(2) Failing execution, levy of actual cost of work done by Government ;
(3) In the alternative, legislation for levy of acreage cess ; and
(4) Handing it over to Tank Panchayets for maintenance.

(iv) Note on the Improvement of Process Service.

It is well known that a good deal, if not the grater part, of the delay in the disposal of civil cases in Courts of first instance, is due to the time occupied in getting parties and witnesses to attend and place their pleadings and evidence

before Court. There is also a general complaint that execution proceedings are tedious and protracted and too often infructuous in result.

This branch of service does not ordinarily attract a proper type of men on account of the arduous nature of the work, the low pay and limited prospects of promotion. There is every reason to be believe that better results can be expected if the members of the Process staff are more adequately paid. The present scale of pay was sanctioned nine years' ago and the following proposals have now been made to improve the pay and prospects of the Process establishment:—

Existing scale.	Rs.	*Proposed scale:*	Rs.
1st Grade Amin ...	... 23	Amins ...	... 20—1—30
2nd do ...	... 20	Servers ...	... 12—½—18
1st Grade Process Server	... 13		(Annual)
2nd do ...	... 11		

Besides a cycle allowance of Rs. 5 per mensem for every man who keeps a bicycle. The Process Nazir will get an allowance of Rs. 15, as also an assistant.

In addition to pay, it is suggested that each Amin and Server may be given a bonus (or commission) varying with the out-turn of work. This offer of a bonus for effective service beyond a prescribed limit is intended as an incentive for better service and not as an additional payment for the work that is being done even now. The proposal will involve extra cost to the extent of about Rs. 53,000.

To meet this extra cost, it is proposed to double the fees chargeable for serving and executing processes of all descriptions through the agency of the Court. The resulting burden on the party is not actually as heavy as it might at first sight appear, as the fees proposed to be charged for every subsequent issue of process, will, except in cases where the party is at fault, be a half of that chargeable for the first process under the revised scale. The parties are moreover at liberty to make their own arrangements for service at half the cost and they will surely avail themselves more largely and systematically than at present of the choice open to them of making their own arrangement for the service of certain kinds of processes.

The opinion of the Assembly is requested on the proposals indicated above.

Summary of Discussion.—Chief Judge:—Most of the delay is due to unsatisfactory service of process. Creditors' trouble begin after decree. Execution is the difficulty. After a careful consideration and obtaining the opinion of all the judges and also of the Law Association, the present proposal is put up. Process establishment is very poorly paid as often represented in the Assembly. If their pay is increased and if some inducement is given in the shape of bonus for work beyond a prescribed limit, matters will certainly improve. This means cost for which process fees should be raised. For subseqent processes, only half the fee will be levied, and the first process should be issued and reissued till it is exhausted before a subsequent one is received. If parties take the responsibility of getting non-coercive processes served, only half the fee will be charged. Increase of fees is not the essential point, but the efficiency of service. If charges increase and there are savings, a reduction will be recommended. Several lawyers of standing were consulted and have recommended the measure.

Some of the members urged that there was already a savings of Rs. 30,000 and that money might be utilised towards this. The Chief Court processes are got served while lower court processes generally do not get served. There should be greater supervision and strict control if better work is to be expected. Servers usually visit the opposite party and fail to serve processes. When pay is increased, better men could be employed, qualifications will be fixed, and minimum service will be fixed. Servers may be kept in each taluk and the work not centralised as now. (The Chief Judge observed that there would be no supervision and that the work was sure to suffer.) Bonus is no incentive, as the process service gets more from the parties. Whether fee is to be increased is another point to be considered. Instead of doubling the fee, it may be raised by a half for the present. The Assembly pressed for better men and better prospects. Criminal Processes get served, while Civil Processes do not. Prospects of the men should depend on their work. If the process is not served owing to fault of parties, it is only then that a fresh process should be issued. Several members reprsented that the proposal was ruinous to parties. Court Fees, stamps and other charges were enchanced. Bonus ought not to be given on principle. If there was a guarantee that one process

was enough then the proposal was agreeable. Otherwise, there would be no relief to parties.

The Chief Judge further explained the situation and said that the proposals might be tried tentatively for a couple of years and if the charges were found to be high, they might be reduced. When a process was reissued, no fees would be charged. It is only when it became impossible or when a process was exhausted that a fresh process would be ordered. That was the guarantee.

Reply of Government.—All these points will be considered before passing orders.